

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ANGELA LYONS,

:

Plaintiff,

v.

:

Case No. 3:14-cv-21-WHR

PATRICK R. DONAHOE,
Postmaster General, United
States Postal Service,

JUDGE WALTER H. RICE

:

Defendant.

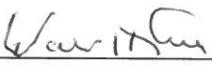
ORDER DISMISSING COUNT III (HOSTILE WORK ENVIRONMENT)
WITH PREJUDICE FOR LACK OF SUBJECT MATTER JURISDICTION;
JUDGMENT SHALL ULTIMATELY ENTER IN FAVOR OF DEFENDANT
AND AGAINST PLAINTIFF ON COUNT III

On March 16, 2016, this Court issued a decision and entry sustaining in part with prejudice and overruling in part without prejudice the motion for summary judgment of Defendant Patrick R. Donahoe, Postmaster General, United States Postal Service ("Defendant"). Doc. #34. In the entry, the Court noted that there was no evidence that Plaintiff Angela Lyons ("Plaintiff") had exhausted her administrative remedies with respect to her claim of hostile work environment (Count III). *Id.*, PAGEID #337. In the absence of any evidence of exhaustion, the Court was without subject matter jurisdiction to hear her claim. *Id.*, PAGEID #334, 337. The Court ordered Plaintiff to show cause within twenty-eight (28)

days of the entry as to why Count III should not be dismissed for lack of jurisdiction. *Id.*, PAGEID #337-38.

Plaintiff failed to respond to the Court's show cause order within the time allotted. Accordingly, pursuant to Fed. R. Civ. P. 12(h)(3), Count III of Plaintiff's Complaint is DISMISSED WITH PREJUDICE. Judgment shall ultimately enter in favor of Plaintiff and against Defendant on Count III.¹

Date: April 19, 2016



WALTER H. RICE
UNITED STATES DISTRICT JUDGE

¹ The Court notes that, on April 18, 2016, Defendant renewed his motion for summary judgment on Plaintiff's outstanding claims. Doc. #35. The parties' briefing with respect to the renewed motion shall proceed in accordance with S.D. Civ. R. 7.2. The trial date and other deadlines remain stayed pursuant to this Court's January 15, 2016, Notation Order.